

THE LAW OFFICES OF

STEVEN L. KESSLER

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October 20, 2022

The Honorable Mary Kay Vyskocil
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *Forfeiture proceeding relating to*
 United States v. Seth Fishman
 20 Cr. 160 (MKV)**

Dear Judge Vyskocil:

Pursuant to an exchange of emails among this Court, AUSA Mortazavi and the undersigned, I respectfully submit this letter on behalf of Dr. Fishman to request an adjournment of the forfeiture proceeding, currently scheduled for October 24, 2022 at 10:30 a.m. (Doc. #947)

As I informed Chambers, I am out of the country and will not be returning to the office until November 9. I am available any day after that for the next two weeks until Thanksgiving. I apologize for any inconvenience.

On a procedural note, it was unclear to me from the Court's Order what would take place before the Court at that time. I mention this only because, as Your Honor is aware, forfeiture is part of sentencing. *See, e.g., Libretti v. United States*, 516 U.S. 29, 42, 116 S. Ct. 356, 133 L.Ed.2d 271 (1995); *United States v. Thompson*, __ F. Supp. 3d __, 2022 WL 2186903, 2022 U.S. Dist. LEXIS 109631 (E.D.N.Y. June 1, 2022) (Garaufis, J.). Therefore, if Your Honor envisioned a proceeding where testimony would be given and evidence presented, Dr. Fishman must be present. Rule 43(a)(3). That may be challenging, given that Dr. Fishman is currently incarcerated in Miami. I am uncertain whether the Rule applies if just oral argument is presented.

In either case, we respectfully request an adjournment of the forfeiture proceeding until a date after November 9, 2022.

The Honorable Mary Kay Vyskocil
October 22, 2022

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Thank you.

Respectfully submitted,

THE LAW OFFICES OF STEVEN L. KESSLER


By: *Steven L. Kessler*
Steven L. Kessler
Attorneys for Defendant Seth Fishman

SLK:rmaf

cc: All Counsel (*by ECF*)

This request to adjourn the proceeding that was previously scheduled to take place on October 24, 2022 at 10:30 a.m. is GRANTED because defense counsel will be out of the country. However, the parties must still appear for a remote conference, via Microsoft Teams, sometime on October 24, 2022 to discuss logistics. The parties must immediately confer and advise the Court what time on October 24 they can be available.

Date: October 21, 2022
New York, New York


Mary Kay Vyskocil
United States District Judge